

111TH CONGRESS  
1ST SESSION

# H. R. 3823

To amend titles XIX and XXI of the Social Security Act to make certain changes to the State Children’s Health Insurance Program and the Medicaid Program.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 15, 2009

Mr. DEAL of Georgia (for himself, Mr. PITTS, Mr. BLUNT, Mr. BARTON of Texas, and Mr. BUYER) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To amend titles XIX and XXI of the Social Security Act to make certain changes to the State Children’s Health Insurance Program and the Medicaid Program.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Medicaid and SCHIP  
5       Beneficiary Choice Improvement Act of 2009”.

1 **SEC. 2. EASING ADMINISTRATIVE BARRIERS TO STATE CO-**  
2 **OPERATION WITH EMPLOYER-SPONSORED**  
3 **INSURANCE COVERAGE.**

4 (a) **REQUIRING SOME COVERAGE FOR EMPLOYER-**  
5 **SPONSORED INSURANCE.—**

6 (1) **IN GENERAL.**—Section 2102(a) of the So-  
7 cial Security Act (42 U.S.C. 1397b(a)) is amend-  
8 ed—

9 (A) in paragraph (6), by striking “and” at  
10 the end;

11 (B) in paragraph (7), by striking the pe-  
12 riod at the end and inserting “; and”; and

13 (C) by adding at the end the following new  
14 paragraph:

15 “(8) effective for plan years beginning on or  
16 after October 1, 2010, how the plan will provide for  
17 child health assistance with respect to targeted low-  
18 income children who have access to coverage under  
19 a group health plan.”.

20 (2) **EFFECTIVE DATE.**—The amendments made  
21 by paragraph (1) shall apply beginning on October  
22 1, 2010.

23 (b) **FEDERAL FINANCIAL PARTICIPATION FOR EM-**  
24 **PLOYER-SPONSORED INSURANCE.**—Section 2105 of such  
25 Act (42 U.S.C. 1397d) is amended—

1           (1) in subsection (a)(1)(C), by inserting before  
2           the semicolon at the end the following: “and, subject  
3           to paragraph (3)(C) of subsection (c), in the form of  
4           payment of the premiums for coverage under a  
5           group health plan that includes coverage of targeted  
6           low-income children and benefits supplemental to  
7           such coverage”; and

8           (2) by amending paragraph (3) of subsection  
9           (c) to read as follows:

10           “(3) PURCHASE OF EMPLOYER-SPONSORED IN-  
11           SURANCE.—

12           “(A) IN GENERAL.—Payment may be  
13           made to a State under subsection (a)(1)(C),  
14           subject to the provisions of this paragraph, for  
15           the purchase of family coverage under a group  
16           health plan that includes coverage of targeted  
17           low-income children unless such coverage would  
18           otherwise substitute for coverage that would be  
19           provided to such children but for the purchase  
20           of family coverage.

21           “(B) WAIVER OF CERTAIN PROVISIONS.—  
22           With respect to coverage described in subpara-  
23           graph (A)—

24           “(i) notwithstanding section 2102, no  
25           minimum benefits requirement (other than

1           those otherwise applicable with respect to  
2           services within the categories of basic serv-  
3           ices described in section 2103(c)(1) and  
4           emergency services) under this title shall  
5           apply; and

6           “(ii) no limitation on beneficiary cost-  
7           sharing otherwise applicable under this  
8           title or title XIX shall apply.

9           “(C) REQUIRED PROVISION OF SUPPLE-  
10          MENTAL BENEFITS.—If the coverage described  
11          in subparagraph (A) does not provide coverage  
12          for the services in each of the categories of  
13          basic services described in section 2103(c)(1)  
14          and for emergency services, the State child  
15          health plan shall provide coverage of such serv-  
16          ices as supplemental benefits.

17          “(D) LIMITATION ON FFP.—The amount  
18          of the payment under subsection (a)(1)(C) for  
19          coverage described in subparagraph (A) (and  
20          supplemental benefits under subparagraph (C)  
21          for individuals so covered) during a fiscal year  
22          may not exceed the product of—

23               “(i) the national per capita expendi-  
24               ture under this title (taking into account  
25               both Federal and State expenditures) for

1 the previous fiscal year (as determined by  
2 the Secretary using the best available  
3 data);

4 “(ii) the enhanced FMAP for the  
5 State and fiscal year involved; and

6 “(iii) the number of targeted low-in-  
7 come children for whom such coverage is  
8 provided.

9 “(E) VOLUNTARY ENROLLMENT.—A State  
10 child health plan—

11 “(i) may not require a targeted low-  
12 income child to enroll in family coverage  
13 described in subparagraph (A) in order to  
14 obtain child health assistance under this  
15 title;

16 “(ii) before providing such child  
17 health assistance for such coverage of a  
18 child, shall make available (which may be  
19 through an Internet website or other  
20 means) to the parent or guardian of the  
21 child information on the coverage available  
22 under this title, including benefits and  
23 cost-sharing; and

24 “(iii) shall provide at least one oppor-  
25 tunity per fiscal year for beneficiaries to

1 switch coverage under this title from cov-  
2 erage described in subparagraph (A) to the  
3 coverage that is otherwise made available  
4 under this title.

5 “(F) INFORMATION ON COVERAGE OP-  
6 TIONS.—A State child health plan shall—

7 “(i) describe how the State will notify  
8 potential beneficiaries of coverage de-  
9 scribed in subparagraph (A);

10 “(ii) provide such notification in writ-  
11 ing at least during the initial application  
12 for enrollment under this title and during  
13 redeterminations of eligibility if the indi-  
14 vidual was enrolled before October 1, 2010;  
15 and

16 “(iii) post a description of these cov-  
17 erage options on any official Internet  
18 website that may be established by the  
19 State in connection with the plan.

20 “(G) SEMIANNUAL VERIFICATION OF COV-  
21 ERAGE.—If coverage described in subparagraph  
22 (A) is provided under a group health plan with  
23 respect to a targeted low-income child, the  
24 State child health plan shall provide for the col-  
25 lection, at least once every six months, of proof

1 from the plan that the child is enrolled in such  
2 coverage.

3 “(H) RULE OF CONSTRUCTION.—Nothing  
4 in this section is to be construed to prohibit a  
5 State from—

6 “(i) offering wrap around benefits in  
7 order for a group health plan to meet any  
8 State-established minimum benefit require-  
9 ments;

10 “(ii) establishing a cost-effectiveness  
11 test to qualify for coverage under such a  
12 plan;

13 “(iii) establishing limits on beneficiary  
14 cost-sharing under such a plan;

15 “(iv) paying all or part of a bene-  
16 ficiary’s cost-sharing requirements under  
17 such a plan;

18 “(v) paying less than the full cost of  
19 the employee’s share of the premium under  
20 such a plan, including prorating the cost of  
21 the premium to pay for only what the  
22 State determines is the portion of the pre-  
23 mium that covers targeted low-income chil-  
24 dren;

1 “(vi) using State funds to pay for  
 2 benefits above the Federal upper limit es-  
 3 tablished under subparagraph (D);

4 “(vii) allowing beneficiaries enrolled in  
 5 group health plans from changing plans to  
 6 another coverage option available under  
 7 this title at any time; or

8 “(viii) providing any guidance or in-  
 9 formation it deems appropriate in order to  
 10 help beneficiaries make an informed deci-  
 11 sion regarding the option to enroll in cov-  
 12 erage described in subparagraph (A).

13 “(I) GROUP HEALTH PLAN DEFINED.—In  
 14 this paragraph, the term ‘group health plan’  
 15 has the meaning given such term in section  
 16 2791(a)(1) of the Public Health Service Act (42  
 17 U.S.C. 300gg–91(a)(1)).”.

18 **SEC. 3. IMPROVING BENEFICIARY CHOICE IN SCHIP.**

19 (a) REQUIRING OFFERING OF ALTERNATIVE COV-  
 20 ERAGE OPTIONS.—Section 2102 of the Social Security Act  
 21 (42 U.S.C. 1397b), as amended by section 1, is amend-  
 22 ed—

23 (1) in subsection (a)—

24 (A) in paragraph (7), by striking “and” at  
 25 the end;

1 (B) in paragraph (8), by striking the pe-  
2 riod at the end and inserting “; and”; and

3 (C) by adding at the end the following new  
4 paragraph:

5 “(9) effective for plan years beginning on or  
6 after October 1, 2010, how the plan will provide for  
7 child health assistance with respect to targeted low-  
8 income children through alternative coverage options  
9 in accordance with subsection (d).”; and

10 (2) by adding at the end the following new sub-  
11 section:

12 “(d) ALTERNATIVE COVERAGE OPTIONS.—

13 “(1) IN GENERAL.—Effective October 1, 2010,  
14 a State child health plan shall provide for the offer-  
15 ing of any qualified alternative coverage that a  
16 qualified entity seeks to offer to targeted low-income  
17 children through the plan in the State.

18 “(2) APPLICATION OF UNIFORM FINANCIAL  
19 LIMITATION FOR ALL ALTERNATIVE COVERAGE OP-  
20 TIONS.—With respect to all qualified alternative cov-  
21 erage offered in a State, the State child health plan  
22 shall establish a uniform dollar limitation on the per  
23 capita monthly amount that will be paid by the  
24 State to the qualified entity with respect to such  
25 coverage provided to a targeted low-income child.

1       Such limitation may not be less than 90 percent of  
2       the per capita monthly payment made for coverage  
3       offered under the State child health plan that is not  
4       in the form of an alternative coverage option. Noth-  
5       ing in this paragraph shall be construed—

6               “(A) as requiring a State to provide for  
7       the full payment of premiums for qualified al-  
8       ternative coverage;

9               “(B) as preventing a State from charging  
10      additional premiums to cover the difference be-  
11      tween the cost of qualified alternative coverage  
12      and the amount of such payment limitation;

13              “(C) as preventing a State from using its  
14      own funds to provide a dollar limitation that ex-  
15      ceeds the Federal financial participation as lim-  
16      ited under section 2105(c)(8).

17              “(3) QUALIFIED ALTERNATIVE COVERAGE DE-  
18      FINED.—In this section, the term ‘qualified alter-  
19      native coverage’ means health insurance coverage  
20      that—

21               “(A) meets the coverage requirements of  
22      section 2103; and

23               “(B) is offered by a qualified insurer, and  
24      not directly by the State.

1           “(4) QUALIFIED INSURER DEFINED.—In this  
2           section, the term ‘qualified insurer’ means, with re-  
3           spect to a State, an entity that is licensed to offer  
4           health insurance coverage in the State.”.

5           (b) FEDERAL FINANCIAL PARTICIPATION FOR  
6 QUALIFIED ALTERNATIVE COVERAGE.—Section 2105 of  
7 such Act (42 U.S.C. 1397d), as amended by sections  
8 301(a) and 601(a) of the Children’s Health Insurance  
9 Program Reauthorization Act of 2009 (Public Law 111–  
10 5), is amended—

11           (1) in subsection (a)(1)(C), by inserting before  
12           the semicolon at the end the following: “and, subject  
13           to subsection (c)(12)(C), in the form of payment of  
14           the premiums for coverage for qualified alternative  
15           coverage”; and

16           (2) by adding at the end of subsection (c) the  
17           following new paragraph:

18           “(12) PURCHASE OF QUALIFIED ALTERNATIVE  
19           COVERAGE.—

20           “(A) IN GENERAL.—Payment may be  
21           made to a State under subsection (a)(1)(C),  
22           subject to the provisions of this paragraph, for  
23           the purchase of qualified alternative coverage.

24           “(B) WAIVER OF CERTAIN PROVISIONS.—

25           With respect to coverage described in subpara-

graph (A), no limitation on beneficiary cost-sharing otherwise applicable under this title or title XIX shall apply.

“(C) LIMITATION ON FFP.—The amount of the payment under paragraph (1)(C) for coverage described in subparagraph (A) during a fiscal year in the aggregate for all such coverage in the State may not exceed the product of—

“(i) the national per capita expenditure under this title (taking into account both Federal and State expenditures) for the previous fiscal year (as determined by the Secretary using the best available data);

“(ii) the enhanced FMAP for the State and fiscal year involved; and

“(iii) the number of targeted low-income children for whom such coverage is provided.

“(D) VOLUNTARY ENROLLMENT.—A State child health plan—

“(i) may not require a targeted low-income child to enroll in coverage described

1 in subparagraph (A) in order to obtain  
2 child health assistance under this title;

3 “(ii) before providing such child  
4 health assistance for such coverage of a  
5 child, shall make available (which may be  
6 through an Internet website or other  
7 means) to the parent or guardian of the  
8 child information on the coverage available  
9 under this title, including benefits and  
10 cost-sharing; and

11 “(iii) shall provide at least one oppor-  
12 tunity per fiscal year for beneficiaries to  
13 switch coverage under this title from cov-  
14 erage described in subparagraph (A) to the  
15 coverage that is otherwise made available  
16 under this title.

17 “(E) INFORMATION ON COVERAGE OP-  
18 TIONS.—A State child health plan shall—

19 “(i) describe how the State will notify  
20 potential beneficiaries of coverage de-  
21 scribed in subparagraph (A);

22 “(ii) provide such notification in writ-  
23 ing at least during the initial application  
24 for enrollment under this title and during  
25 redeterminations of eligibility if the indi-

vidual was enrolled before October 1, 2010;  
and

“(iii) post a description of these coverage options on any official website that may be established by the State in connection with the plan.

“(F) RULE OF CONSTRUCTION.—Nothing in this section is to be construed to prohibit a State from—

“(i) establishing limits on beneficiary cost-sharing under such alternative coverage;

“(ii) paying all or part of a beneficiary’s cost-sharing requirements under such coverage;

“(iii) paying less than the full cost of a child’s share of the premium under such coverage, insofar as the premium for such coverage exceeds the limitation established by the State under subparagraph (C);

“(iv) using State funds to pay for benefits above the Federal upper limit established under subparagraph (C); or

“(v) providing any guidance or information it deems appropriate in order to

1 help beneficiaries make an informed deci-  
2 sion regarding the option to enroll in cov-  
3 erage described in subparagraph (A).”.

4 **SEC. 4. APPLICATION TO MEDICAID.**

5 In accordance with rules established by the Secretary  
6 of Health and Human Services, the requirements imposed  
7 under a State child health plan under title XXI of the  
8 Social Security Act under the amendments made by the  
9 preceding sections of this subtitle shall apply in the same  
10 manner to a State plan under title XIX of such Act, except  
11 that—

12 (1) such requirements shall not apply to indi-  
13 viduals whose eligibility for medical assistance under  
14 such title is based on being aged, blind, or disabled  
15 or to individuals with a category of individuals de-  
16 scribed in section 1937(a)(2)(B) of such Act;

17 (2) the national per capita expenditures shall be  
18 determined based on a benchmark coverage de-  
19 scribed in section 1937(b)(1) of such Act but with-  
20 out regard to expenditures for individuals described  
21 in paragraph (1) or for nursing facility services and  
22 other long-term care services (as determined by the  
23 Secretary).

1 **SEC. 5. EXPANSION OF HEALTH OPPORTUNITY ACCOUNT**  
2 **PROGRAM.**

3 (a) IN GENERAL.—Section 613 of the Children’s  
4 Health Insurance Program Reauthorization Act of 2009  
5 (Public Law 111–3) is repealed.

6 (b) EXPANSION.—Section 1938(a)(2) of the Social  
7 Security Act (42 U.S.C. 1396u–8(a)(2)) is amended—

8 (1) in subparagraph (A) by striking everything  
9 following the first sentence; and

10 (2) by striking subparagraph (B).

○